

Application No. 10/669,990
Amendment Dated May 10, 2006
Reply to Office Action of February 8, 2006

REMARKS

In the Office Action dated February 8, 2006, claims 1-16 were examined with the result that claims 6-11 were allowed while claims 1-5 and 12-16 were rejected. In response, applicant has cancelled claims 1-5 and 12-16. In view of the above amendments and following remarks, reconsideration of this application is requested.

In the Office Action, claims 12-16 were provisionally rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 30-34 of co-pending Application No. 10/673,629. The Examiner states that although the conflicting claims are not identical, they are not patentably distinct from each other because the present claims are drawn to a method of inhibiting tumorogenesis in the treatment of breast cancer while claims 30-34 of the co-pending application are drawn to a method of treating breast cancer by using the same vitamin D compound, i.e. 2MD.

In response, applicant has cancelled claims 12-16 from the present patent application. Applicant intends to file a continuation application to further prosecute claims 12-16 therein. As a result of the cancellation of claims 12-16 in the present Amendment, applicant believes the Examiner's double patenting rejection is now moot, and respectfully requests the withdrawal thereof.

In the Office Action, claims 1-5 and 12-16 were rejected under 35 USC §112, first paragraph, as being non-enabled by the specification. While the Examiner believes the data in the specification enables claims 6-11 directed toward increasing life expectancy of female human being lacking estrogen, the Examiner believes the specification does not enable a method of increasing the life expectancy of any human being.

In response, applicant has cancelled claims 1-5 and 12-16. Again, applicant intends to file a continuation application directed toward one or both of these sets of claims. Accordingly, since claims 1-5 and 12-16 have been cancelled herein, applicant believes the Examiner's §112, first paragraph, rejection is now moot and respectfully requests the withdrawal thereof.

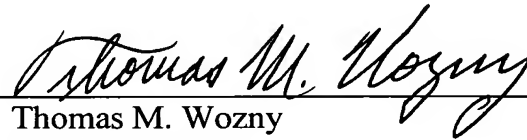
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An effort has been made to place this application in condition for allowance and such action is earnestly requested.

Respectfully submitted,

ANDRUS, SCEALES, STARKE & SAWALL, LLP

By

A handwritten signature in cursive script, reading "Thomas M. Wozny", is written over a horizontal line.

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